

REMARKS

This paper is a response to the Final Office Action dated April 13, 2010. Prior to entry of this paper, claims 1-26 were pending in this application. Claims 17 and 21 are amended merely to correct informalities. **The amendments to claims 17 and 21 do not require further search and/or consideration.** No claims are cancelled or added. Upon entry of this paper, claims 1-26 will remain pending. No new matter is added.

In the Office Action mailed April 13, 2010, pending claims 1-26 were rejected. More specifically, the status of the application in light of this Office Action is as follows: claims 1-26 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over various combinations of U.S. Patent No. 6,502,194 ("Berman"), U.S. Patent Application Publication No. 2001/0030660 ("Zainoulline"), and U.S. Patent Application Publication No. 2003/0069854 ("Hsu").

This rejection is respectfully traversed.

Independent claim 1 is respectfully submitted to be allowable at least because the applied references fail to disclose or suggest the claimed feature of being configured to, "initiat[ing] play of the downloaded beginning portion of the target content segment if less than a preallocated quantity of content segments were previously streamed, during a subscription period, in association with a subscriber[.]" (Emphasis added.)

The Office Action admits that Berman and Zainoulline fail to disclose the above quoted features, but points to Hsu as allegedly teaching these features. (See, e.g., Office Action, pages 5 and 6.) While it is agreed that Berman and Zainoulline fail to disclose these features, the undersigned respectfully disagrees with the Office Action's mapping of Hsu to claim 1's features.

Hsu is generally directed towards expiring content on playback devices. (See, e.g., Hsu's title.) As described by Hsu:

[m]usic that is provided through digital delivery to a playback device can have an associated expiration, such as time-limited playback rights, or rights that allow a user to play the audio files only a certain number of times. A user may therefore select music for a playback device and listen to the selected music during a certain time period or a certain number times for smaller fee, or even for free, compared to what he or she would have paid if the music were stored on a tangible medium. If the user after this time likes the music, he or she can choose to refresh the expiration of the music and obtain new playback rights. (Hsu, paragraph [0004], emphasis added.)

In addition, paragraph [0013] of Hsu states that "[c]ontent providers can provide more extensive services, such as subscription programs or promotional programs, for music that has a high value." While subscriptions are also mentioned in paragraphs [0032] and [0036] of Hsu¹, Hsu provides little explanation of subscription programs and makes no mention or suggestion of "preallocated quantities" in the context of "subscription periods." In other words, Hsu discusses expiration of content based on either playback for "a certain number of times" or "during a certain time period." However, Hsu simply fails to disclose or suggest expiration of content based on playback "a certain number of times" "during a certain time period."

In contrast, claim 1 recites "initiat[ing] play of the downloaded beginning portion of the target content segment if less than a preallocated quantity of content segments were previously streamed, during a subscription period, in association with a subscriber[.]" (Emphasis added.) For at least the above discussed reasons, claim 1 is respectfully submitted to be allowable.

Independent claims 6 and 16 are respectfully submitted to be allowable at least because the applied references fail to disclose or suggest the claimed feature of "wherein the initiation of play of the content segment is based on whether less than a

¹ Paragraph [0032] of Hsu states "[a]lternatively, the request [for transferring audio files] can have originated at the content server (160), for example, if the user has selected a monthly subscription for a certain type of audio files and the server has determined that it is time to deliver the next month's audio files to the user's playback device", and paragraph [0036] of Hsu states "For example a file 'Symphony No. 2' can have associated rights saying that it can only be transferred to a device that is registered with a user account for which a premium subscription service has been selected."

preallocated quantity of content segments were previously streamed, during a subscription period, in association with a subscriber[.]" Independent claims 26 is respectfully submitted to be allowable at least because the applied references fail to disclose or suggest the claimed feature of "... playback of a predetermined sequence of content segments based on whether less than a preallocated quantity of content segments were previously streamed, during a subscription period, in association with a subscriber[.]"

The remaining claims depend from one of independent claims 1, 6, 16, or 26 and are respectfully submitted to be allowable based at least upon such dependence.

Examiner Interview Request

As discussed in the voicemail messages exchanged between the undersigned and Examiner Flanders, the undersigned respectfully requests that Examiner Flanders telephone him upon review of this paper to discuss this application.

Conclusion

In view of the foregoing, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned at (206) 622-1711 if the Examiner believes that an interview might be useful for any reason.

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary, such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,
SCHWABE, WILLIAMSON & WYATT, P.C.

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by: /Davin Chin/
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